

MEMO ENDORSED

HARTMAN & CRAVEN LLP

488 MADISON AVENUE
NEW YORK, N.Y. 10022

TEL: (212) 753-7500
FAX: (212) 688-2870
WWW.HARTMANCRAVEN.COM

Edward A. White, Partner
Direct Line: (212) 754-6911
ewhite@hartmancraven.com

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 9/13/05

June 7, 2006

By Federal Express

Hon. Lewis A. Kaplan
United States District Judge
United States Courthouse
500 Pearl Street
New York, New York 10007

**Re: Commodity Futures Trading Commission v. Abbas A. Shah and
Linuxor Asset Management, LLC
Case No. 05-CV-8091**

Dear Judge Kaplan:

On June 2, 2006, I submitted for your approval a stipulation on consent in which the parties agreed to an adjournment of the discovery and joint pretrial order filing deadlines. On June 6, 2006, I received a notification that, in the absence of any justification, this request was denied. I am writing now to explain my justifications for seeking an adjournment.

The original discovery deadline in this case was June 28, 2006. Although the parties have conducted significant and diligent discovery to date, including three depositions and the production of many tens of thousands of documents, at least two crucial depositions have not yet been scheduled.

Based upon information obtained in the first three depositions, I now seek the deposition of a non-party witness, Phillip Egger, who resides in the state of Washington. We have not previously arranged this or subpoenaed him because we were told the CFTC was trying to arrange to either bring him in or to take his deposition in Seattle. The CFTC recently informed us that they were no longer planning to depose him. However, absent his voluntary consent either to appear in New York or to participate in a telephonic deposition, I will have to subpoena him and arrange to travel to Washington to obtain his testimony. The witness was, apparently, previously represented by counsel in his dealings with the CFTC, but that counsel informed us last week that he was no longer representing the witness. Despite repeated efforts to contact this witness and to ascertain the identity of his current counsel, if any, I have not yet spoken with him and I do not anticipate his cooperation in this matter. Thus, I expect that we will have to serve

HARTMAN & CRAVEN LLP

him with a subpoena in Seattle and the parties' counsel will have to travel to Washington to take his subpoenaed deposition.

I believe that this non-party witness will provide vital information regarding the case that has not yet been revealed, including the identity of two non-party witnesses who played an integral role in the events that led to this litigation. If and when such information is discovered, either through the deposition or through my own independent investigation, I intend to depose these witnesses as well, as I believe their testimony will be essential to a complete understanding of this case.

Even if the non-party witness consents to a deposition before the discovery deadline, the parties still have to agree on a deposition date for defendant Abbas A. Shah. After speaking with Mr. Shah and Mr. Acevedo regarding their availability, it appears that the earliest date we can depose Mr. Shah is July 24, 2006.

Additionally, although the initial discovery deadline expressly included any and all depositions of expert witnesses, no depositions of experts have been taken thus far. It appears to me that an accounting expert will be necessary for the CFTC, and possibly for defendants, but none have yet been designated by either side.

Apart from the logistical difficulties involved in scheduling the remaining depositions, I seek an adjournment of the discovery deadline to allow the parties extra time to review the extensive and complex documentation that has been produced by both sides in this case. With the proposed additional time, the parties would have a better opportunity to examine the strengths and weaknesses of their cases, which I hope will lead to a settlement of this matter.

Based on these justifications, I hereby renew my request, with the consent of Mr. Acevedo, to extend the discovery deadline in this matter from June 28, 2006 to September 22, 2006. I request an adjournment of the joint pretrial order filing deadline from August 9, 2006 to October 31, 2006 solely to accommodate the proposed modification to the discovery timetable.

Thank you for your attention to this matter.

Very truly yours,



Edward A. White

Encl.

cc: Mr. David Acevedo, Esq.
Commodity Futures Trading Commission
Division of Enforcement
140 Broadway, 19th Floor
New York, New York 10005

SO ORDERED




LEWIS A. KAPLAN, USDJ
9/13/06